

JAP:JLS

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

M - 06 - 1263

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UNITED STATES OF AMERICA

- against -

EDWARD WINGATE, JR.,

AFFIDAVIT IN SUPPORT  
OF APPLICATION FOR  
ARREST WARRANT

(18 U.S.C. § 2422(b))

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

ROBERT FITZSIMMONS, being duly sworn, deposes and says that he is a Special Agent with United States Immigration and Customs Enforcement ("ICE"), duly appointed according to law and acting as such.

Upon information and belief, on or about and between July 8, 2006 and December 5, 2006, within the Eastern District of New York and elsewhere, the defendant EDWARD WINGATE, JR., using the mail or any facility or means of interstate or foreign commerce, did or attempted to knowingly persuade, induce, entice or coerce an individual under 18 years of age to engage in a sexual activity for which any person can be charged with a criminal offense.

(Title 18, United States Code, Section 2422(b))

The source of your affiant's information and the

grounds for his belief are as follows:<sup>1</sup>

1. I am a Special Agent for ICE and have been so employed for approximately 18 years. I am currently assigned to the Child Exploitation Unit in New York, New York, and conduct investigations relating to, among other things, crimes against children, including the trafficking of child pornography. I have gained expertise in the conduct of such investigations through training in seminars, classes, and daily work related to conducting these types of investigations, including the execution of numerous search warrants relating to child exploitation and pornography offenses and subsequent prosecution of offenders. In addition, I have personally participated in the investigation and arrest of individuals who had knowingly persuaded, induced, enticed or coerced an individual under the age of 18 years to engage in sexual activity and in investigations of individuals who had traveled to engage in sexual contact with a minor.

2. The factual information supplied in this application and affidavit is based upon my investigation and upon information provided to me by other agents of ICE and members of other law enforcement agencies.

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<sup>1</sup> Since this affidavit is being submitted for the limited purpose of establishing probable cause to arrest, I have not set forth each and every fact concerning this investigation of which I am aware. Additionally, statements attributed to individuals in this affidavit are described only in sum and substance and in part.

RELEVANT STATUTES

3. Title 18, United States Code, Section 2422(b) provides, in relevant part, that "[w]hoever using the mail or any facility or means of interstate or foreign commerce . . . knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in . . . any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not less than 5 years and not more than 30 years.

4. Under New York State Penal Law, Section 130.25(2), a person is guilty of rape in the third degree when: "Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old."

5. Under New York State Penal Law, Section 130.40(2), a person is guilty of sodomy in the third degree when: "Being twenty-one years old or more, he or she engages in deviate sexual intercourse with a person less than seventeen years old."

6. Under New York State Penal Law, Section 130.00(2), "'[d]eviate sexual intercourse' means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and penis, or the mouth and the vulva."

THE ROLE OF THE INTERNET AND COMMERCIAL COMPUTER SERVICES

7. America Online (AOL), is a commercial computer service which offers subscribers the ability to use the Internet to communicate with others. To communicate using AOL, each subscriber must have access to a computer which communicates through a modem connected to telephone and cable lines with the central computer system located in Vienna, Virginia. Each subscriber can communicate with other AOL users via email or in real time through chat rooms, private chat rooms or instant messages when the other subscriber is also online. Within the system, text messages and graphic images (such as photographs) can be sent to a subscriber, or to any person with an Internet email address. Both text and graphics files can be saved to the computer's hard drive or other electronic media for access and printing at any time.

8. A "chat room" is an electronic meeting room provided by AOL and other similar services, which allows Internet users to have group conversations. For example, within the AOL network there are two categories of chat rooms, AOL created chat rooms and AOL member created chat rooms. Within these two categories exist various general topic areas and within these topic areas exist the various chat rooms.

9. "Instant messaging" (IM) is real-time typewritten conversation between individuals, much like an oral conversation,

and is used to conduct one-on-one conversations.

10. Yahoo is another a commercial computer service that offers an Internet mail service, Yahoo!Mail, which allows users to communicate online via email and to send photographs and live video over the Internet. To communicate using Yahoo!Mail a subscriber must have access to a computer which communicates through a modem connected to telephone and cable lines with the Yahoo central computer system located in Sunnyvale, California.

THE INVESTIGATION

11. The information provided in this affidavit is the summation of investigation conducted by a Detective Investigator working for the King's County District Attorney's Office in Brooklyn, New York ("the Detective") and your affiant. For the purpose of this investigation the Detective, using a computer in Brooklyn, New York, assumed an online undercover identity of a 14-year-old girl living in Brooklyn, using the screen name "Swettlatinaa."

12. On July 8, 2006, an individual subsequently identified as defendant EDWARD WINGATE, JR., as detailed below, began communicating with the Detective via AOL instant messaging. During that exchange and in their subsequent conversations over the Internet, which continued until December 1, 2006, the defendant used the screen name "Eeblaze2003" when communicating via AOL and "eblaze2003" when communicating via Yahoo!Mail. The

text of the communications became, at the instigation of "Eeblaze2003," increasingly sexually explicit. On one occasion Eblaze2003 sent the Detective live video of Eblaze2003 masturbating. In addition, Eeblaze2003 began to make plans to visit Swettlatinaa in person. I have reviewed these emails and have spoken with the Detective about this investigation. Portions of the more than 10 different conversations are summarized below.<sup>2</sup>

13. On July 8, 2006, the Detective logged onto America On Line (AOL) using the screen name, "Swettlatinaa" and entered the "I Lover Older Men" chat room. "Eeblaze2003" began corresponding with the Detective via instant messaging system. The Detective posing as Swettlatinaa explicitly told Eeblaze 2003 on that date that Swettlatinaa is a 14-year-old high school student. In later online conversations the Detective stated that she lives in Brooklyn, New York.

14. During their correspondence on July 8, 2006, Eeblaze2003 emailed the Detective a photograph of himself ("the July 8 photograph"). I have been informed by an ICE agent who has compared the July 8 photograph with the photograph of WINGATE

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<sup>2</sup> 5. Based upon my training and experience the abbreviations, grammar, and spelling used in Internet messages on AOL and Yahoo!Mail can deviate widely from standard English. For the sake of clarity the remaining quotations from internet chats do not contain the repeated use of "sic" that would be appropriate in other contexts.

on file with the Pennsylvania Department of Transportation Bureau of Drivers that WINGATE is the man in the July 8 photograph.

15. On September 25, 2006, the following exchange occurred:

Eeblaze2003: so now that I have my hands wrapped around ur waist cn u give me a hand with ur buttons, I would love to be able to kiss ur breast.

Swettlatinaa: is it supposed 2 be where my legs feel weak right now?

Eeblaze2003: yea and u we start grinding on each other and getting kinda warm and excited.

During that same electronic conversation, Eeblaze2003 stated "so now u have me on my knees and ur leg around my neck and are begining to squirm around as I kiss you inbetween ur leggs, further and further." Shortly before the communication ended, Eeblaze2003 asked "so do u think u would like to try to plan a secret afternoon together?"

16. On September 30, 2006, Eblaze2003 sent the Detective a video via Yahoo, showing that Eblaze2003 had the words "No Fear" tattooed on his shoulder. Eblaze2003 then asked "so u are sure u want to be alone with me and the very strong chance that we will have sex together?" Later in that same correspondence he stated "and I will place the head of my dick in ur opening."

17. On October 30, 2006, Eeblaze2003 asked the Detective when they could meet in person. When the Detective replied that they may be able to meet in the near future,

Eeblaze2003, who had previously stated that he lived in Philadelphia, Pennsylvania, stated that he could easily drive to meet her.

18. During a November 6, 2006, electronic conversation, Eeblaze2003 provided the Detective with his cell phone number, 215-313-5245, and stated that his name is "Eddie."

19. On November 25, 2006, Eeblaze2003 again asked the Detective when they could meet. The Detective said that they could meet on December 5 (2006) because her mother would be working from 7:00 a.m. until 10:00 p.m. that day. Eeblaze2003 stated that he might be nervous making the trip because "there is always the chance that I could end up on an eposide of 20/20. . . .they have decoys set up online to find older guys trying to date young girls, and then when they come to their house they are arrested." Describing what he would do when he arrived and was in her bedroom, Eeblaze2003 wrote "ur pants are off and I am kissing u inbetween ur legs. . . .licking and sucking u beging to almost climax, it might feel a little strange but jsut relax and let it come to u."

20. Near midnight on November 25, 2006, eblaze2003 sent live video feed to the Detective via Yahoo showing a man masturbating.

21. In a December 4, 2006 IM session, Eeblaze2003 asked for the Detective's home address. After the Detective

provided an address in Brooklyn, Eeblaze2003 stated that "if I leave here at 9:30 I should be there by 11:30 provided I don't get lost." He also said that he would only be able to stay for about two hours because he had to return to pick up his daughter at school.

22. On December 5, 2004, Eeblaze2003 sent an email stating that he would not be traveling to meet the Detective because he had to stay with his daughter.

23. A review of AOL records reveals that the account Eeblaze2003 is registered to an individual named EDWARD WINGATE, with an address of 5808 Woodbine Avenue, Philadelphia, Pennsylvania, 19131, and a home telephone number listed as (215) 879-6995. The Detective subpoenaed from AOL records pertaining to the September 30, 2006 session described in paragraph 16 and the November 6, 2006 session described in paragraph 18.<sup>3</sup> The records revealed that IP address for both dates was 66.16.91.155, a static IP address assigned to Eeblaze2003. AOL records also revealed that the telephone line associated with that static IP address was (215) 879-6995, the same number which appeared as WINGATE's number in AOL records. Records from Cavalier Telephone, which provides service for that number, reveal that the subscriber for (215) 879-6995 is EDWARD

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<sup>3</sup> At this time, law enforcement authorities have not obtained records for the other sessions described herein.

WINGATE, 5808 Woodbine Ave, Philadelphia, Pennsylvania, 19131.

24. A review of Yahoo records reveals that the account eblaze2003 is registered to an individual named EDWARD R. WINGATE, in Philadelphia, Pennsylvania, 19131.<sup>4</sup>

25. A review of NCIC records reveals that when EDWARD ROOSEVELT WINGATE, JR., was arrested in New Jersey on March 9, 1997, for possession of marijuana and hashish, his address was 5808 Woodbine Avenue, Philadelphia, Pennsylvania, and that he had "No Fear" tattooed on his left shoulder. The same tattoo was

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<sup>4</sup> The Yahoo records obtained to date do not provide a specific street address or telephone number for Edward R. Wingate.

visible on Eblaze2003's left shoulder in the video referred to in paragraph 16.

26. A review of the Pennsylvania Department of Transportation Bureau of Drivers Licensing revealed that Wingate listed 5808 Woodbine Avenue, Philadelphia, Pennsylvania as his address on his current driver's license, and stated that he was born in 1957.

WHEREFORE, your affiant respectfully requests that the defendant EDWARD WINGATE be dealt with according to law.



ROBERT FITZSIMMONS  
Special Agent, ICE  
Child Exploitation Unit

Sworn to before me this  
13th day of December, 2006

UNITED STATES  
EASTERN DISTRICT OF PENNSYLVANIA